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BISHNU C. BORAH, M.D., P.C.,	:	Civil Action No.
and BISHNUE BORAH, M.D.,	:	
	:	2:04-cv-03617-BMS
Plaintiffs,	:	
	:	
v.	:	
	:	
MONUMENTAL LIFE INSURANCE CO.,	:	
et al,	:	
	:	

To: Steven J. Fram, Esquire
Archer & Greiner, P.C.
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Attorney for the Plaintiffs

In support of this Motion, Sea Nine Associates relies upon the Memorandum of Law submitted with this Motion.

As more fully set forth in the Memorandum of Law, dismissal of Plaintiffs' Complaint without prejudice is warranted for the failure to serve within the time and in the manner provided in Fed. R. Civ. P. 12(b)(5) and Fed. R. Civ. P. 4. Additionally, the Plaintiffs have attempted to serve a complaint against a sole proprietorship where the sole proprietor died before the institution of the action.

In the alternative, if the Court does not dismiss this case based on failure to serve Sea Nine, Sea Nine moves to dismiss this case based on Fed R. Civ. P. 12(b)(6) for the failure to state a claim upon which relief can be granted. First, all of the claims are barred by the applicable statute of limitations. Second, the claims under the New Jersey Consumer Fraud Act and the New Jersey Racketeering Act must be dismissed because New Jersey law has no application in this matter. The specific grounds are set forth with greater specification in the Memorandum of Law.

WHEREFORE, for the reasons, Sea Nine Associates respectfully requests that Plaintiffs' Complaint be dismissed.

The Law Offices of Robert M. Bovarnick

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Dated: January 14, 2005

Attorney for Sean Nine Associates